IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22542 of 2004

Between:

Bankiti Geetha Reddy, W/o. Bankiti Prabhakar Reddy,
Puttapahad Village, Kulakacharla Mandal, R.R.District.

..... PETITIONER

AND

1 The Joint Collector, R.R.District.
2 The Revenue Divisional Officer, Chevella Division, R.R.District.
3 The Dy. Tahsildar (Enforcement), Parigi, R.R.District.
4 The Mandal Revenue Officer, Kulkacharla Mandal, R.R.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 3rd respondent in seizing 46 Quintals of Rice and 2.40 Quintals of Sugar from the Fair Price shop run by the Petitioner on 04.11.2004 and also a the proceedings under Section 6-A of E.C. Act initiated pursuant to the report of the 3rd respondent pending before Dy. collector and the show cause Notice dt. 16.11.2004 in letter No. E/2775 of 2004 issued by the 2nd respondent proposing to cancel my authorisation basing on the ground mentioned therein as illegal and arbitrary and without jurisdiction and consequently direct the respondents to supply commodities to the petitioners Fair Price Shop for distribution the Card Holders and pass such other order or orders.

Counsel for the Petitioner:MR.A.PRABHAKAR RAO

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is a fair price shop dealer. She was issued a show cause notice, dated 16.11.2004, by the 2nd respondent directing her to show cause as to why her authorization shall not be cancelled. The 1st respondent passed an order, dated 22.11.2004, taking on record proceedings under Section 6-A of the Essential Commodities Act, 1955, against the petitioner and directing that the stocks seized from the petitioner be disposed of to the card holders. Petitioner challenges the action of the respondents 1 and 2, referred to above.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Insofar as the challenge to the show cause notice issued by the 2nd respondent is concerned, this Court is not at all convinced to entertain the writ petition. The reason is that the petitioner can have any genuine grievance, if only the explanation submitted by her is not considered and an order adverse to her interest is passed. It is not her case that the 2nd respondent does not have the jurisdiction to issue the show cause notice. The question as to whether the allegations contained in the show cause notice are true or whether they are within the scope of the A.P. State Public Distribution System Control Order, 2001, needs to be considered only after she submits her explanation.

Coming to the order, dated 22.11.2004, passed by the 1st respondent, it needs to be observed that the purport of the same is nothing but a measure taken pending disposal of the proceedings under Section 6-A of the Act. On noticing that certain

irregularities have taken place in the distribution of the essential commodities, proceedings were initiated against the petitioner under Section 6-A of the Act. The Act empowers the 1st respondent to give necessary directions for disposal of the seized commodities. Depending on the outcome of the proceedings, necessary directions as to the sale proceeds have to be given by the 1st respondent. It is too early for this Court to interfere with the proceedings, at this stage.

One aspect, which needs to be noticed, is that, as on today, the authorization of the petitioner as fair price shop dealer is neither suspended nor cancelled. Therefore, she is entitled to be supplied the essential commodities. There does not exist any justification for stoppage of supply of the commodities.

Hence, the writ petition is disposed of directing that the respondents 2 and 3 shall supply the commodities to the petitioner, as long as the authorization in her favour is neither suspended nor cancelled. If the petitioner has not submitted any explanation to the show cause notice, dated 16.11.2004, she shall be entitled to do so, within a period of ten days from today. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 25-01-2005

Note: Office to issue c.c.

in two days.

(B/o.)

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To

1 The Joint Collector, R.R.District.
2 The Revenue Divisional Officer, Chevella Division, R.R.District.
3 The Dy. Tahsildar (Enforcement), Parigi, R.R.District.
4 The Mandal Revenue Officer, Kulkacharla Mandal, R.R.District.

5 2CCs to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (OUT)

6 2CD copies

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